



Misdemeanor Bail

Public Meeting on the *ODonnell* Consent Decree

October 27, 2021

[Click Here: Public Meeting can be viewed via YouTube.](#)



Questions?

Throughout the meeting questions can be asked utilizing the chat feature. JAD staff will be monitoring the chat and during the Q&A portion questions will be presented to the panelists.



Today's Agenda

Welcome	Interim Director of Justice Administration
Overview	<i>ODonnell</i> Project Manager
Progress Updates	Federal Court Monitor
	Federal Community Workgroup
	County Attorney's Office
	Sheriff's Office
	County Criminal Courts at Law
Questions & Answers	



Harris County Justice Administration Department

Dr. Ana Yáñez Correa
Interim Director of JAD
www.jad.harriscountytexas.gov



Harris County

Harris County's mission is to build a more dynamic, vibrant, and resilient community while being inclusive, equitable, and transparent in all that we do.

Safety and Justice Goal: Harris County will promote safe, healthy, thriving communities through restorative and evidence-based strategies that foster public trust, prevent violence and trauma, reduce racial and economic disparities, and minimize criminal justice system exposure where at all possible.



Justice Administration Department's Purpose

An independent research Department for Harris County working collaboratively with Commissioners Court and criminal justice stakeholders to help them fulfill the vision for the County, specifically by advancing innovative approaches to justice that are consistent with the Harris County justice and safety goals to promote safe, healthy, thriving communities through restorative and evidence-based strategies that foster public trust, prevent violence and trauma, reduce racial and economic disparities, and minimize criminal justice system exposure where at all possible.



Conception of the Consent Decree

- May 16, 2016 Miranda O'Donnell and other plaintiffs brought forth a federal class action lawsuit challenging the Harris County misdemeanor money bail system.
- February 16, 2019 Criminal Courts at Law Judges amended Local Rule 9.
- November 21, 2019 Commissioner's Court approved the *O'Donnell* Consent Decree (CD).
- December 9, 2019 County Attorney's Office publically solicited proposals for an Independent Monitor.
- February 4, 2020 Cite and Release was enacted.
- February 19, 2020 Justice Administration Department (JAD) launched CD Website.
- March 3, 2020 Judge Lee H. Rosenthal appointed Independent Monitor Brandon Garrett and Deputy Monitor Sandra Guerra Thompson.
- May 2, 2020 JAD summarized and posted key policy changes in JPC and CJC.
- May 8, 2020 Monitors established a Community Work Group (CWG) to share their findings and solicit feedback on the implementation of the CD.
- August 6, 2020 JAD began providing data to Monitors

Monitoring Pretrial Reform in Harris County

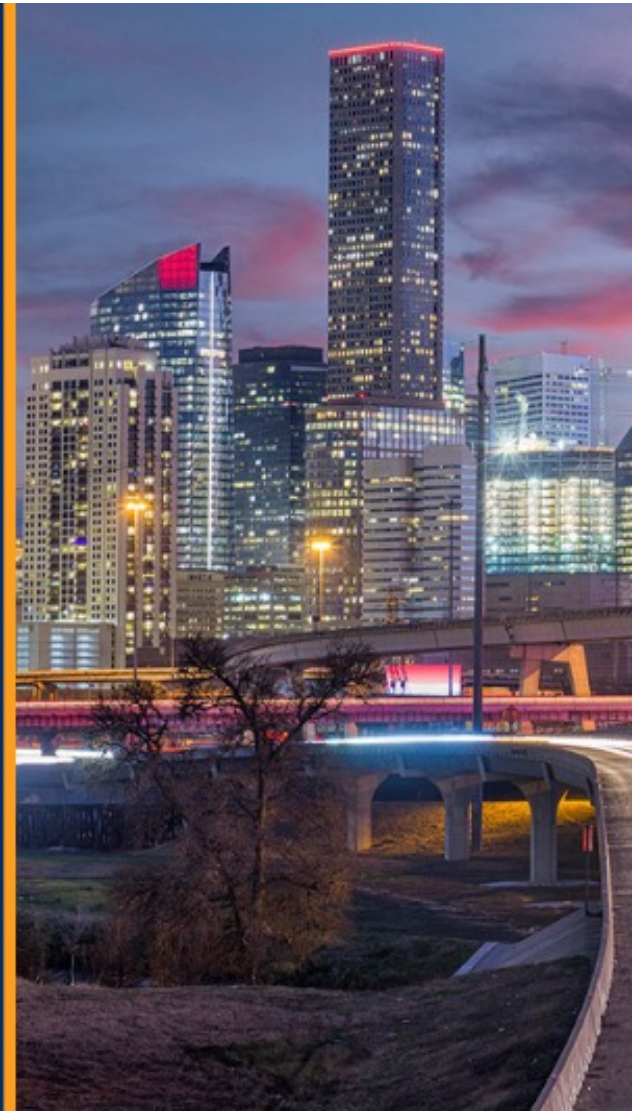
Third Report of the Court-Appointed Monitor

October 27, 2021

Brandon L. Garrett
Duke University School of Law

THE OFFICIAL WEBSITE OF THE
INDEPENDENT MONITOR FOR THE
***ODONNELL V. HARRIS COUNTY* DECREE**
REGARDING MISDEMEANOR
BAIL PRACTICES

sites.law.duke.edu/odonnellmonitor



Our Team

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Texas A&M University



UNIVERSITY of
HOUSTON
LAW CENTER



LIBERAL ARTS
TEXAS A&M UNIVERSITY
PUBLIC POLICY RESEARCH INSTITUTE

Community Working Group

- **Asst. Chief Hiram Contreras**—Retired Asst. Chief HPD and Retired U.S. Marshall
- **Thao Costis**—President and CEO of SEARCH, faith-based nonprofit to assist homeless people
- **J. Allen Douglas**—Executive Director and General Counsel Downtown Redevelopment Authority
- **Guadalupe Fernandez**—Tahirih Justice Center, Policy and Advocacy Manager, Houston Office, advocate for immigrant female survivors of domestic violence
- **Jay Jenkins, J.D.**—Texas Criminal Justice Coalition
- **Frances E. Isbell**—CEO Healthcare for the Homeless-Houston.
- **Terrence “TK” Koontz**—Texas Organizing Project, formerly incarcerated community leader
- **Johnny N. Mata**—Presiding Officer, Greater Houston Coalition for Justice
- **Sr. Maureen O’Connell, M.S.W.**—former Executive Director of Angela House (facility for transitioning women after incarceration)
- **Asst. Chief Timothy Oettmeier, Ph.D.**—Retired Exec. Asst Chief Houston Police Department
- **Sybil Sybille**—Texas Advocate for Justice Fellow, military veteran and formerly incarcerated comm
- **Tara Grigg Green, J.D.**—Foster Care Advocacy Center Texas, Executive Director



The ODonnell Consent Decree:

- *Misdemeanor Bail Reform:* In Harris County, secured money bonds are no longer required for most misdemeanor cases under the court rule adopted as part of the settlement of the *ODonnell v. Harris County* case. Most people are released promptly without a hearing.
- *Bail Options Unchanged for Cases with Public Safety Concerns:* For misdemeanors presenting public safety risks (e.g., repeat DWIs, family violence, prior bond violations or outstanding warrants), arrestees are not automatically released. They get a hearing at which magistrates have the usual options to require financial bonds, protective orders, pretrial supervision requirements, and GPS monitoring.
- *Better Bail Hearings:* Defense attorneys now represent people at bail hearings. Previously they had no defense at these hearings. Judges also must give greater attention in deciding on bail requirements.

Major Consent Decree Accomplishments:

- *Court Appearance*: Ideas42 began to research the primary causes of court non-appearance, with surveys and interviews completed and analyses ongoing.
- *Revised Pretrial Hearing Form*: Criminal Court Judges implemented a set of redesigned misdemeanor pretrial hearing forms that better reflect the Consent Decree provisions and progress.
- *Text Notifications*: New email and text notifications were approved by the Judges and fully implemented for cite and release cases, with implementation for all other misdemeanor cases, including the reset, personal bonds, General Order Bonds (GOBs), cash, and surety form, scheduled to be completed by November 1, 2021.
- *Translation of Court Forms*: The County has completed translating the bond conditions form and financial affidavit.
- *Second Public Meeting*: Harris County held its second official public meeting regarding the O'Donnell Consent Decree at which the Monitors presented the Second Report. The Monitors also presented the Second Report at a series of additional presentations to community groups and stakeholders.
- *Training*: VERA Institute of Justice designed, incorporated feedback, and provided the second set of trainings on the Consent Decree to public defenders, prosecutors, hearing officers, judges, and other county officials from August 11-20, 2021.
- *Indigent Defense*: The National Association for Public Defense (NAPD) completed its evaluation of Harris County's indigent defense systems on July 9, 2021. The findings of the NAPD report are detailed below and the report is available online.

Our Findings:

- Our analysis now includes richer and more comprehensive data regarding misdemeanor cases in Harris County. Our findings largely confirm what we reported in our first two reports, but with more detailed analyses.
 - *Overall, the work suggests that repeat offending by misdemeanor arrestees has remained largely stable in recent years.*
- We continue to observe a notable downward trend in the number of misdemeanor cases.
- Very few misdemeanor defendants are re-arrested for a serious offense.
- Most people arrested for misdemeanor offenses now experience a relatively short period of pretrial detention.
- Currently, nearly 40% of people arrested for misdemeanors are Black, 60% are White (a category that includes people who identify as Latinx), and we estimate that 40% are Latinx.
- The share of misdemeanor cases resulting in a conviction has greatly declined

Declining Misdemeanor Filings

- The number of misdemeanor charges and the number of people arrested for misdemeanors in Harris County noticeably fell in 2020, a year heavily affected by the pandemic.
- We continue to observe a notable downward trend in the number of misdemeanor cases filed, which fell from approximately 61,000 per year in 2015 to 46,000 in 2020.
- The number of misdemeanor cases filed during the first half of 2021 is nearly 25,000, which is only slightly higher than the number from the first half of 2020 (23,308).
- The number of people arrested for misdemeanors during the first half of 2021 (21,799) is somewhat higher than the number from the first half of 2020 (20,044).
- The number of misdemeanor cases with co-occurring felonies, where an individual is arrested for a misdemeanor and a felony on the same date, gradually increased between 2015 and 2020, accounting for approximately 5% of total misdemeanor cases in 2015-2019 and 8% of total cases in 2021. During the first half of 2021, 7% of total misdemeanor cases had a co-occurring felony.

Race and Ethnicity:

- Currently, nearly 40% of people arrested for misdemeanors are Black and 60% are White (a category that includes people who identify as Hispanic or Latinx). We estimate that Latinx persons accounted for approximately one-third (36%) of all persons arrested for misdemeanor in 2015, but this share gradually increased over time, reaching 40 percent in the first half of 2021. The racial distribution of people arrested for misdemeanors in Harris County has been remarkably stable over the past years. However, it does not reflect the racial composition of Harris County, which includes approximately 20% Black persons, 44% Latinx persons, and 29% White (not Latinx) persons, according to 2019 Census estimates.

Bond Amounts and Failures:

- Prior to 2018, the initial bond amount was set at \$500 or more in virtually all misdemeanor cases where the bond amounts were observed. Bond amounts of \$3,000 or more were also quite common, observed in nearly 40% of misdemeanor cases from 2015 and 2016. However, initial bond amounts of \$100 or less are now observed in most misdemeanor cases since 2019: 62% in 2019, 66% in 2020, and 68% in the first half of 2021.
- The overall bond failure rate (i.e. the combined rate of bond forfeitures and bond revocations) rose from 17% in 2015 to 30% in 2018 (prior to the date the current misdemeanor judges took the bench), and has gradually declined since then, reaching 23% in the first half of 2020.
- This data from before 2021, however, is subject to important limitations. Judges have historically applied widely varying policies regarding when to forfeit or revoke a bond.

Repeat Offending

- The share of people arrested for misdemeanors who had new charges filed within one year following the initial arrest remained basically constant between 2015 and 2021. Twenty-three percent of misdemeanor defendants from the first half of 2020 were re-arrested within a year. These shares have remained largely constant since 2015.
- The numbers of persons arrested for misdemeanors who had new charges filed within one year has steadily declined. In 2015, that number was 11,899 persons, while in 2019 it was 9,153 persons.
- Very few misdemeanor defendants are re-arrested for a serious offense. 0.2% of misdemeanor defendants from the first half of 2020 were re-arrested for a criminal homicide within a year; that figure was .14% in 2018. Re-arrests within a year due to aggravated assault, burglary, and larceny are more common but still relatively rare, observed in 4.4%, 2.9%, and 2.9% of the misdemeanor defendant population, respectively, from the first half of 2020.
- Overall, the work suggests that repeat offending by misdemeanor arrestees has remained largely stable.

Case Dispositions:

- Most people arrested for misdemeanor offenses now experience a relatively short period of pretrial detention. Since 2017, the length of pretrial detention in more than 80% of the cases was two days or less. Moreover, the share of people arrested who are detained pretrial for longer than a week has declined from 20% in 2015 to 10% in 2020 to 7% in the first half of 2021.
- The share of misdemeanor cases resulting in a conviction has rapidly declined over the past several years. Among all misdemeanor cases that were filed in 2019 and disposed, about 66% were dismissed, while only about one-third resulted in a conviction. Very few criminal trials occurred. (We note that 2019 is the last full year for which we can observe the entire subsequent year of case disposition information. We also report below on the first half of 2020).
- Prior to 2017, the vast majority of convictions came from guilty pleas. In 2015, for example, 61% of cases resulted in a conviction, and of those 97% resulted from guilty pleas. In 2016, it was 58% of convictions that came from guilty pleas, and of those 97% resulted from guilty pleas. Since then, the share of guilty pleas has declined.
- The length of time a case remains open has increased recently. The share of misdemeanor cases disposed within three months has significantly declined between 2015 (53%) and the first half of 2020 (16%). Likewise, more than 90% of the cases filed in 2015 were disposed within a year, but the share fell to 43% during the first half of 2020.

Figure 1: Number of Misdemeanor Defendants by Year

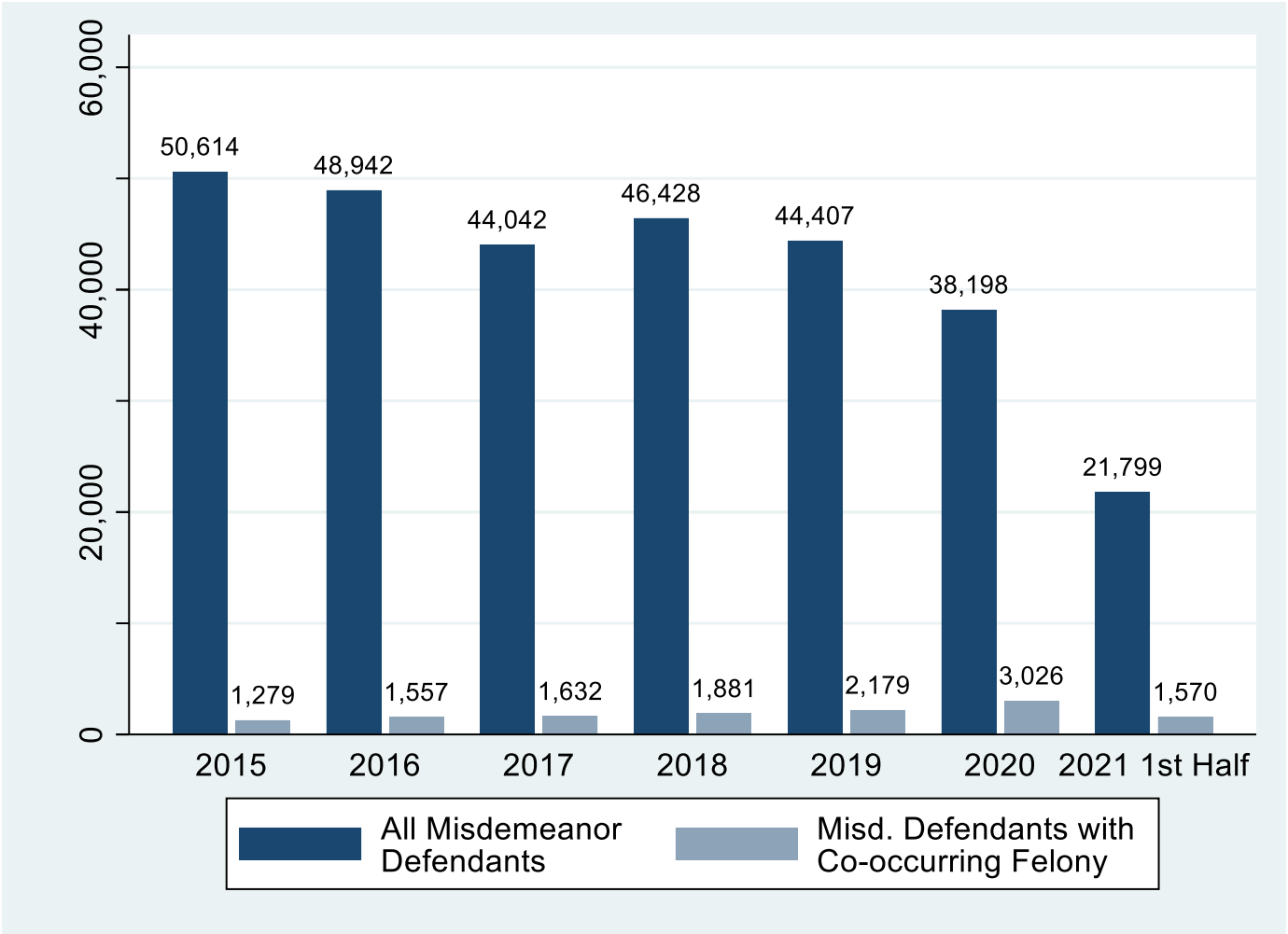


Figure 8: Share of Misdemeanor Cases in which Defendants Were Released on a Bond before First Setting

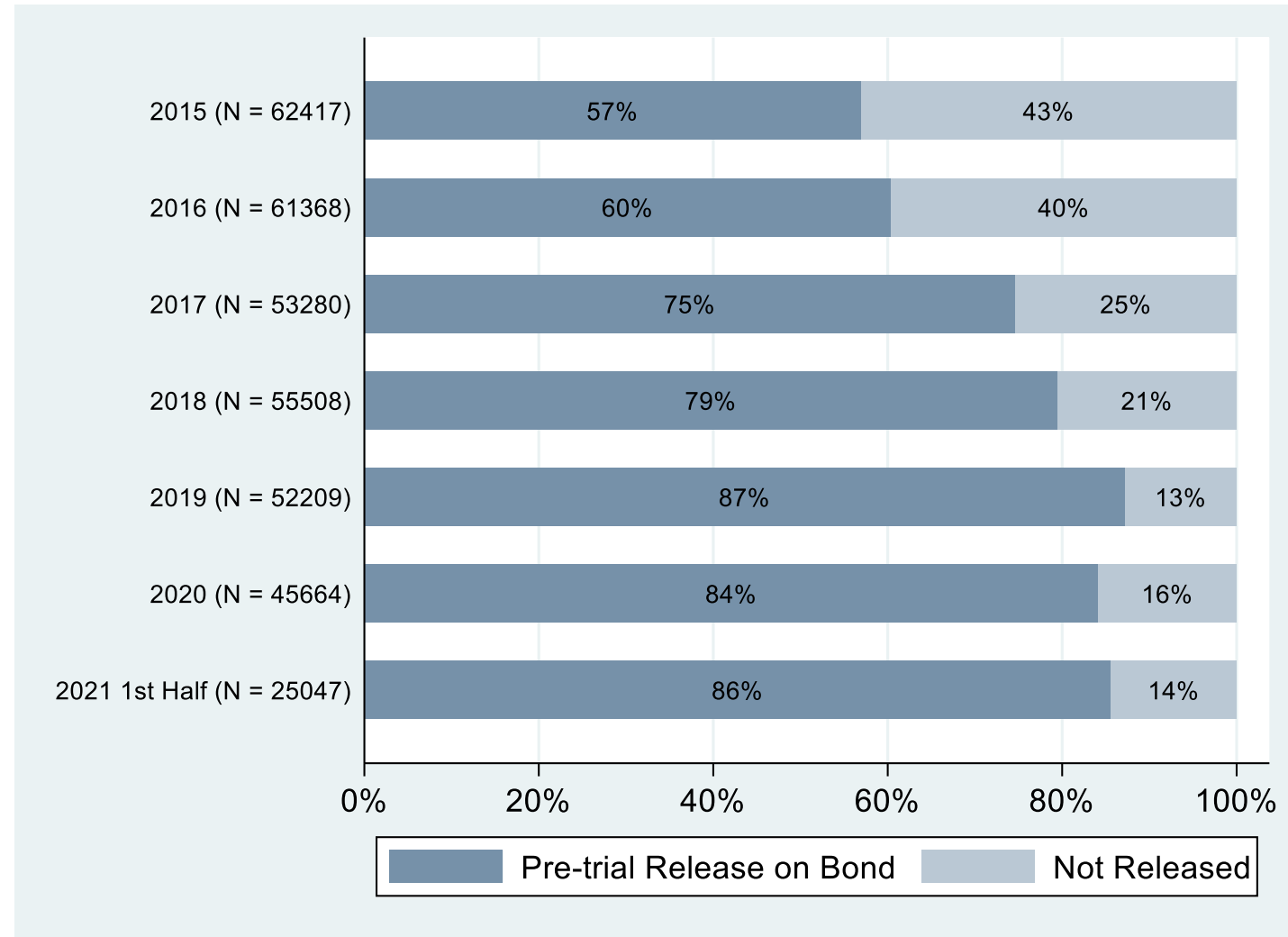


Figure 9: Types of Initial Bond Approvals

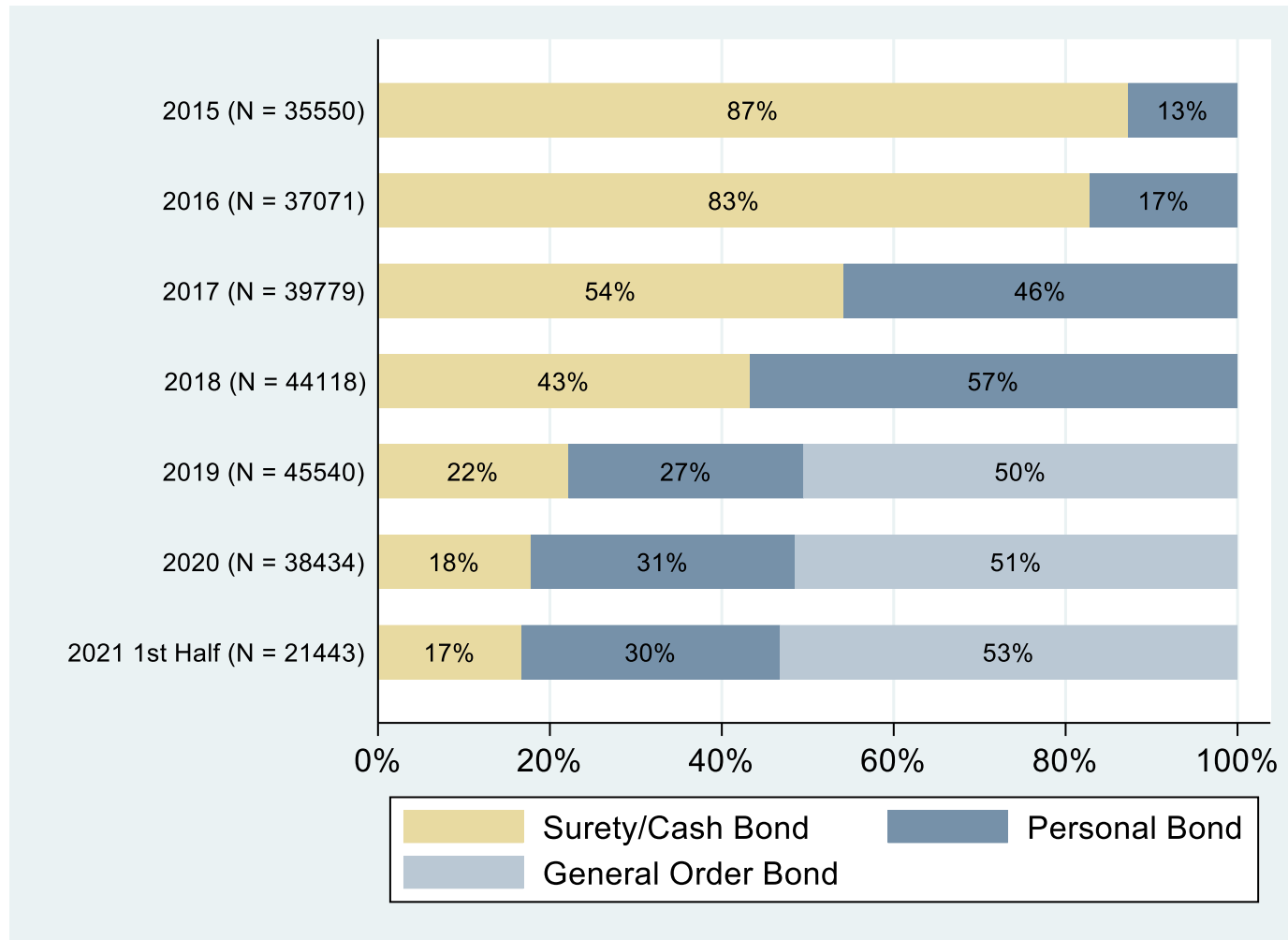


Figure 10: Rate of Bond Failures within 365 Days, by Bond Types

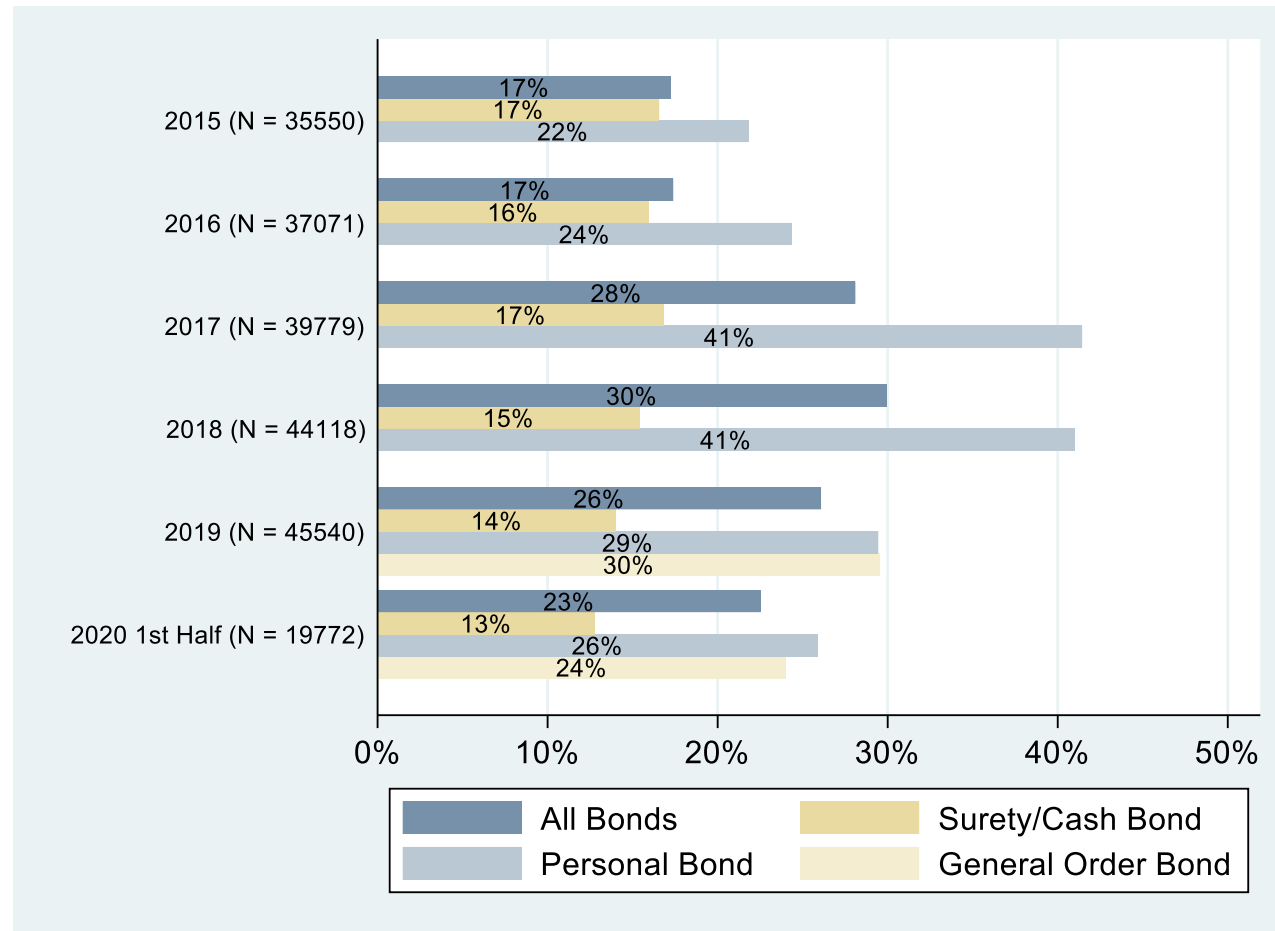


Figure 11: Initial Case Disposition

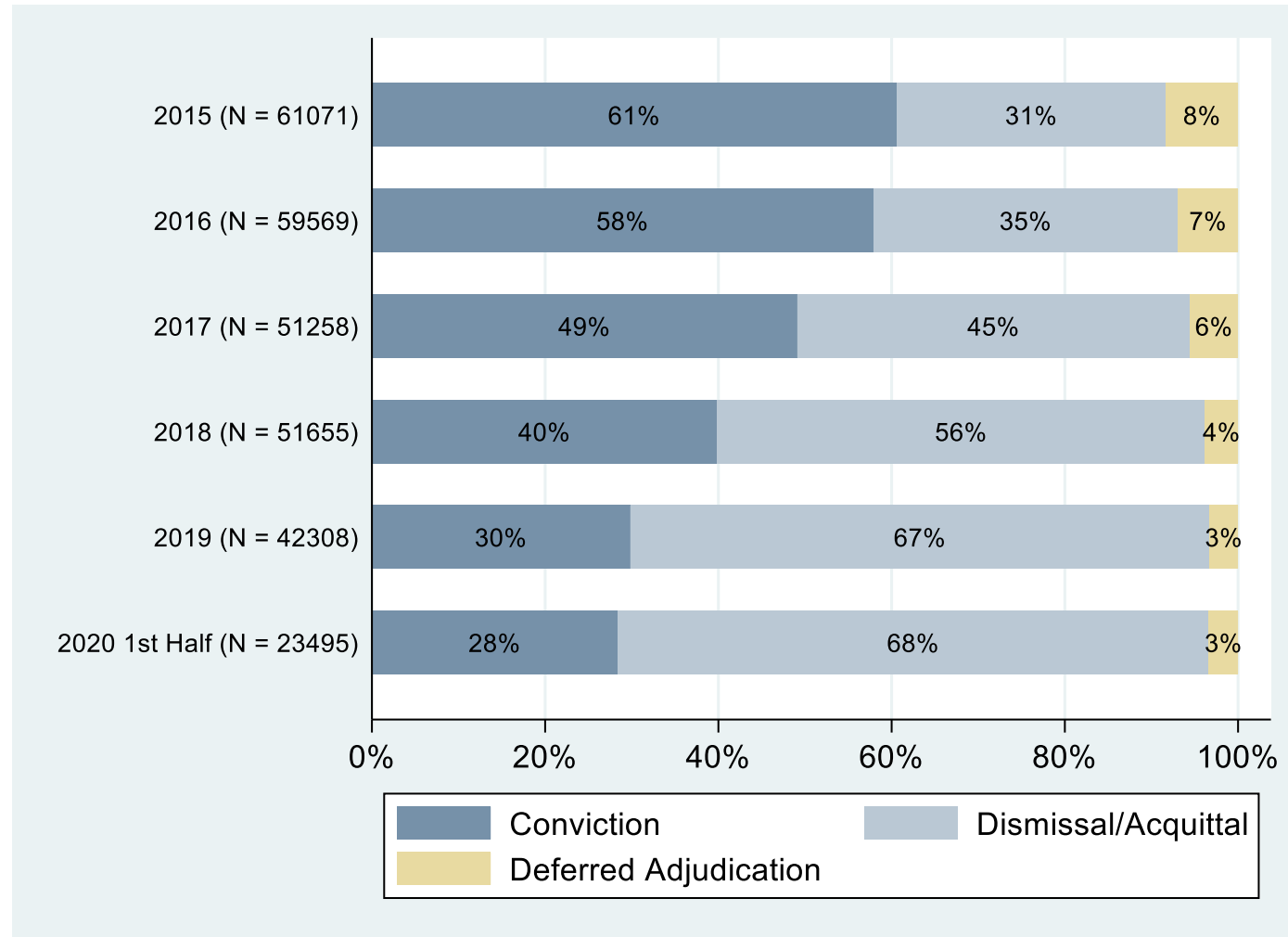


Figure 12: Share of Guilty Pleas among Misdemeanor Convictions

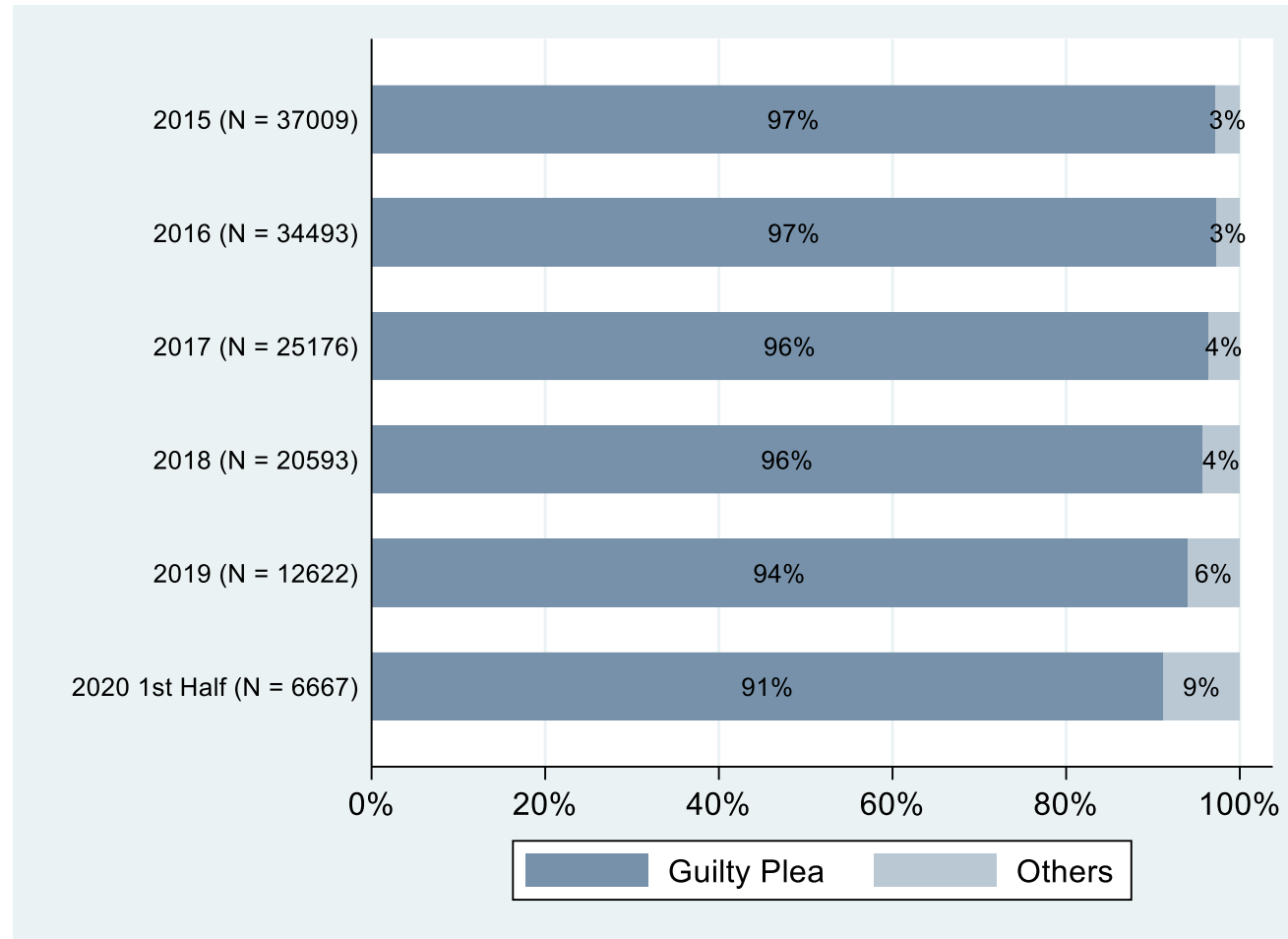


Figure 13: Time in Days between Case Filing and Disposition

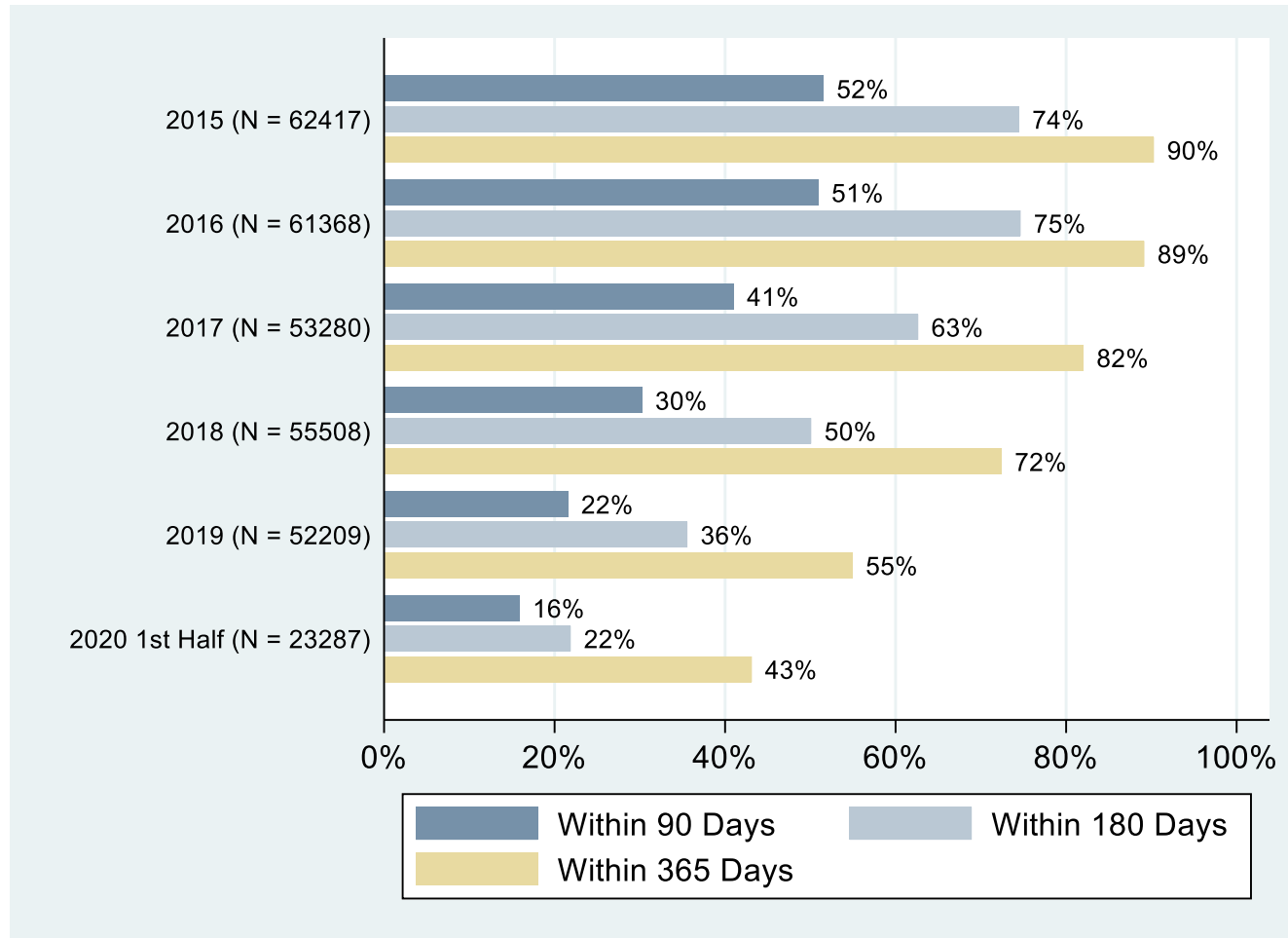


Table 5: Share of Misdemeanor Cases with a New Case Filed within 90, 180, and 365 Days

Year	New Case Filed within						Obs.
	90 Days		180 Days		365 Days		
2015	13%	(7908)	19%	(11880)	28%	(17189)	62417
2016	13%	(8045)	19%	(11850)	27%	(16703)	61368
2017	13%	(6935)	19%	(10014)	27%	(14134)	53280
2018	13%	(7210)	19%	(10325)	26%	(14318)	55508
2019	12%	(6127)	17%	(8978)	24%	(12437)	52209
2020 1st Half	12%	(2766)	17%	(4058)	25%	(5868)	23287



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***ODonnell* Consent Decree Implementation**

County Attorney's Office working with stakeholders to ensure:

- **Constitutional and transparent pretrial release and detention system;**
- **Safeguard arrestees' equal protection and substantive due process rights;**
- **Ensure public safety, access to information and systemic transparency.**





***ODonnell* Consent Decree Implementation**

County Attorney's Office continues to provide legal advice, consultation and contract management in ongoing decree obligations, including:

- **Revising court and pre-trial forms;**
- **Training;**
- **Updating notification systems, including text notifications; and**
- **Data reporting and distribution.**



***ODonnell* Consent Decree Implementation**

We will continue working with the stakeholders over the next six months:

- **Study court nonappearance;**
- **Continue to implement electronic notification and scheduling options;**
- **Ongoing training; and**
- **Advising on data dissemination.**

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Harris County Criminal Courts at Law

Judge Toria J. Finch

Presiding Judge of the Harris County Criminal Courts at Law

Presiding Judge, Harris County Criminal Court at Law No. 9

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Questions?



THANK YOU

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